

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

DERELL MEYNARD, individually and on behalf of all others
similarly situated,

Plaintiffs,

- *against* -

WHOLE FOODS MARKET GROUP,

Defendants.

**Case #: 18-CV-
00086(SJF)(AKT)**

**DECLARATION OF
RUBEN MERCEDES**


I, Ruben Mercedes, declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true and correct to the best of my knowledge and belief.

1. My name is Ruben Mercedes. I currently reside in the State of New York, Queens County.
2. I was employed as an Assistant Team Leader for the produce department by Whole Foods Market Group at its Upper West Side store—located at 808 Columbus Avenue, New York, New York 11025—in 2012.
3. During my employment with the Defendant, the produce department consisted of approximately 24-30 employees.
4. All 24-30 employees were manual laborers. Their responsibilities required that they work with their hands far in excess of 25% of the time. Responsibilities included unpacking shipments of produce, stocking shelves, rotating inventory, creating and maintaining displays, and keeping the department clean and organized.

5. No member of the produce department is exempt from working on the sales floor and completing the previously mentioned responsibilities. This includes positions like Produce Buyer.
6. Produce Buyers—who are responsible for taking inventory and placing order for more produce—only do so for at most an hour and a half of an eight-hour shift. Once the Buyer places the order, they must return to the sales floor to continue to complete the responsibilities of a regular produce department team member.
7. To claim that a Produce Buyer has specialized work that is unlike any of the responsibilities of a regular produce team member is like making up a story and is untrue. A produce buyer is simply a produce team member who has an additional responsibility to perform during a small part of the day.
8. During my employment with Whole Foods Market Group, there were at least 250 employees working at the Upper West Side location.
9. The only job titles at the Upper West Side store who were not engaged in manual labor at least 25% of the time were the store manager, the assistant manager(s), the marketing team, and other office personnel.
10. Of the 250 employees at the Upper West Side store, I would estimate that 230 of the employees, or 95%, are manual laborers. Departments like seafood, grocery, bakery, specialty, prepared foods, among others, perform similar functions and responsibilities to those of the produce department. Their job is to unpack shipments, stock their department, rotate inventory, create and maintain displays, assist customers and keep their department clean and organized. Cashiers also are engaged in physical activity virtually all day.

I declare that the foregoing is true and correct.

Dated: Huntington, New York
November 30, 2020



Ruben Mercedes